

## **REMARKS**

Applicants, by the amendments presented above, have made a concerted effort to present claims which more clearly define over the prior art of record, and thus to place this case in condition for allowance.

Currently, claims 1-13 and 20-30 are pending. Claims 26-30 are newly-presented.

### ***Allowable Subject Matter***

Applicants acknowledge with appreciation that the Examiner indicated that claims 11 and 12/11 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Interview***

Applicants thank the Examiner for the courtesy of the interview which was conducted on December 10, 2003. During the interview, the Examiner explained his position on the combination of United States Patent No. 5,649,896 to Barsky, United States Patent No. 5,817,003 to Moll et al. and United States Patent No. 5,817,002 to Donnelly et al. No agreement was made as to claim language.

### ***Claim Rejections - 35 U.S.C. §103***

Claims 1-10, 12/10 and 13 were rejected under 35 U.S.C. §103 as being unpatentable over United States Patent No. 5,649,896 to Barsky in view of United States Patent No. 5,817,003 to Moll et al. and further in view of United States Patent No. 5,817,002 to

Donnelly et al. Reconsideration and withdrawal of the rejection in view of the remarks made herein is requested.

In Col. 1, the Summary of the Invention, Barsky teaches:

...an infant radiant warmer ... includes a base and a bassinet assembly supported by the base and including (a) a mattress assembly upon which an infant can be placed, (b) a plurality of vertically disposed optically transparent electrothermal side panels surrounding the mattress assembly, and (c) an **optically transparent** draft shield assembly disposed over the mattress assembly and movable between a completely closed position and a completely open position. Also included in this infant radiant warmer is an overhead infrared heater supported by the base and disposed above the basinet assembly **to radiate heat through the optically transparent** draft shield assembly to an infant placed on the mattress assembly. (emphasis added)

Therefore, Applicants submit that the teaching of Barsky is specifically to exclude that of the presently-claimed invention, because the presently-claimed invention (as described in the language of Barsky) is a optically non-transparent draft shield. Therefore, Applicants contend that one of ordinary skill in the art reading Barsky would not be lead to combine the teachings of Donnelly to include a LCD panel on the draft shield because Barsky teaches that the draft shield must be transparent.

The Examiner has argued that the Barsky's infant warmer could be combined with the LCD panel of Donnelly because of the draft shields alternative construction where it "serves as a source of radiant heat and provides warmth to the infant when overhead infrared heater 14 is not in operation or add to the warmth provided by the overhead infrared heater to the infant when the overhead infrared heater is in operation". Thus, the teaching of Barsky in this alternative construction with the overhead infrared heater not in operation is still one where the draft shield is taught to be transparent.

In any case, this configuration is not taught in isolation and is stated to be compatible with the overhead infrared heater when it is in operation. Accordingly, one of ordinary skill

in the art would not combine the teachings of the LCD panel in Donnelly to provide an operational infant warmer with the electrothermal draft shield of Barsky without inventive input. It is therefore the assertion of the Applicants that because these references cannot be combined, that the claims are novel and non-obvious over the cited references.

Therefore, reconsideration and allowance of claim 1 is requested.

Claim 2-10, 12/10 and 13 are dependent upon amended claim 1 which Applicants submit is in condition for allowance. Reconsideration and allowance of claims 2-10, 12/10 and 13 is requested.

Claims 20-25 were rejected under 35 U.S.C. §103 as being unpatentable over United States Patent No. 5,649,896 to Barsky in view of United States Patent No. 5,817,003 to Moll et al. Reconsideration and withdrawal of the rejection in view of the amendments and the remarks made herein is requested.

Claim 20 has been amended to specify “a rigid rounded upper cover configured to extend over said surface”. Applicants submit that the cover of Barsky is not a rigid rounded cover as is specified in amended claim 20.

In addition, Applicants submit that neither Barsky and/or Moll, alone or in combination, discloses or suggests an infant heater with a radiant element as part of the cover regulating an infant’s skin temperature and controlled humidification to prevent insensible water loss as is specified in amended claim 20. Barsky discloses an overhead infrared heater and a draft shield assembly, which can be completely open or completely closed. The overhead heater radiates heat through the draft shield to the infant on the mattress. Moll discloses either an enclosed environment without radiant heating, or a radiant warmer without a cover. Applicants submit that the prior art is primarily directed at an overhead infrared

heater and the prior art does not disclose or suggest an upper radiant heater is integrated with, supported by, connected or otherwise in immediate proximity to the upper cover as is specified in claim 20.

Therefore, Applicants submit that amended claim 20 is allowable over the prior art. Reconsideration and allowance of amended claim 20 is requested.

Claim 21-25 are dependent upon amended claim 20 which Applicants submit is in condition for allowance. Reconsideration and allowance of claims 21-25 is requested.

### ***Newly-Presented Claims 26-30***

In accordance with the Examiner's suggestion during the interview, Applicants have presented a number of independent claims of varying scope. Applicants submit that the prior art of record does not anticipate and does not render obvious newly-presented claims 26-30. In relation to claims 26-30, Applicants submit that the cover of Barsky is neither rigid, one piece, rounded nor does the electrothermal panel of Barsky result in uniform heating or is non-uniformly distributed over the cover.

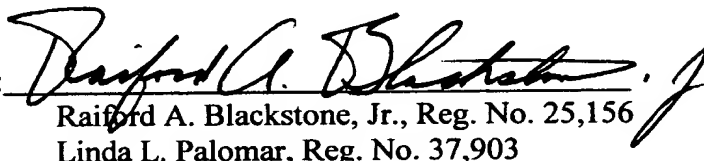
Therefore, Applicants submit that the prior art of record does not anticipate and does not render obvious newly-presented claims 26-30. Entry, consideration and allowance of the claims is respectfully requested.

In view of the above Amendments and Remarks, Applicants respectfully submit that the claims of the application are allowable over the rejections of the Examiner. Should the Examiner have any questions regarding this Amendment, the Examiner is invited to contact one of the undersigned attorneys at (312) 704-1890.

Respectfully submitted,

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